

REMARKS

The Examiner's action dated October 13, 2005, has been received, and its contents carefully noted.

The Examiner's observation about the arrangement of the specification has been noted. If the Examiner believes that the addition of section headings to the specification would be desirable, he is authorized to add those headings.

In response to the rejection of claims 1-11 under 35 U.S.C. § 112, second paragraph, claim 1 has been amended to provided proper antecedent basis for "the product" and to delete the phrase "the same". Accordingly, it is requested that the formal rejection be reconsidered and withdrawn.

The rejection of claims 1-11 under the judicially created doctrine of double patenting over claims of US patent 5,860,354 is respectfully traversed because the subject matter claimed in the present application is not disclosed in the patent and is not covered by the patent. The patent and the application are not claiming the same subject matter.

The '354 patent only describes a drip-type coffee maker having a device for purification of water supply from a reservoir. The machine includes a cold water reservoir (1) having an outlet (2) connected to a water heater (3) via a 1-

wave valve (4), in order to supply hot water, through an ascending tube to a sprinkler head for a filter containing ground coffee. The water purification device (5) is mounted within the cold water reservoir and includes a removable cartridge (7) having a cup (8) in its lower part for supporting a filter sachet (15) containing a water purification substance (16). The filter sachet is removably mounted within the cartridge (7) and is held in place by means of a peripheral rim (19) that can rest on an upper edge (21) of the cup (8). In operation, cold water from the reservoir (1) penetrates to the interior of the cartridge (7) through gaps (42, 43) and passes through the filter sachet (15) before flowing through an outlet (2) of the reservoir in the direction of the water heater (3).

The present application, and particularly the claimed subject matter, differ from that disclosed and claimed in the '354 patent in that, according to the present invention, cartridges (which differ in kind from the "cartridges" disclosed in the reference) containing the product to be infused are located at the interior of an infusion head that is supplied with hot water under pressure. The cartridges contain a product that will be subjected to infusion in order to produce a hot beverage.

In clear contrast, the '354 patent discloses and claims an arrangement in which cartridges containing a water purification product are supplied with cold water, which is heated after having passed through the water purification cartridge.

The present invention provides a machine that is able to receive cartridges that contain a beverage-producing product and having different sizes in order to make possible the production of different types of beverages. Clearly, the cartridges which are to be used in the machine according to the present invention are unrelated to the water purification cartridges disclosed in the '354 patent. It might be noted that the water purification cartridge disclosed in the '354 patent remains in place for a rather long time, before being removed for replacement of the sachet, which will be of exactly the same type as the one removed.

Even if the filter sachet of the '354 patent is removably mounted at the interior of the cartridge (7), the cartridge can only receive identical sachets having the same form and identical dimensions predetermined as a function of the configuration of the cup (8) of the cartridge (7) in order for it to be maintained in place in a sealed manner (see column 2, lines 57-65).

In clear contrast, the machine according to the present invention, as claimed, is constructed to receive cartridges containing beverage producing product having different diameters.

Claim 1 distinguishes over any conceivable disclosure of the '354 patent at least by its recitation of means for supplying hot water to an infusion head able to receive at least two cartridges of different diameters, as well by its recitation of "means for placing said means for supplying (hot water) in communication with the product contained within the cartridges in order to obtain a beverage."

According to the '354 patent, only cold water is supplied to the water purification cartridge and the water leaving the cartridge is not a beverage.

The claims of the '354 patent clearly do not disclose anything related to the subject matter of the claims of the present application. Those claims require a water purification device having an outlet connected to a water heater and arranged to receive cold water from a container.

It is there for submitted that there is no relation between the claims, or the specification of the '354 patent and the claims of the present application.

Finally, regarding the Examiner's assertion that there is "no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent", it must be pointed out that there is a very good reason why applicant was prevented from doing so: the invention defined in the claims of the present application is not in any way disclosed in the patent.

Accordingly, it is requested that this double patenting rejection be reconsidered and withdrawn.

The rejection of claims 1-5 as anticipated by EP 0125215 is also respectfully traversed.

The '215 reference describes a coffeemaker arranged to receive pre-packaged cartridges, the coffeemaker including means (40) for supplying hot water to an infusion head that is arranged to receive cartridges (230, 330) having different heights and each having a planar flange (234, 334) for supporting the cartridge. The machine further includes openings (41) for supplying water to the product contained in

the cartridges in order to obtain a beverage. The machine also includes an axial hole (510) through which the resulting beverage is directed from the cartridge (230, 330) toward a vessel for collecting the beverage. The infusion head includes a support (30) in the form of a cylinder having at least one recess forming a housing for at least two cartridges having different heights. The recess has a single annular support that matches both types of cartridges, since the support elements for the cartridges have the same size and shape.

More particularly, referring to Figures 4 and 6 of the reference, which are enlarged views of the zone of contact of a cartridge with the water distribution head, it will be noted that each cartridge (230, 330) is supported by its respective flange (234, 334) on the upper edge of the cylinder (30). These flanges thus constitute the support surfaces of the cartridge that are supported by the upper edge of the cylinder (30).

Thus, the machine disclosed in this reference can only be used with cartridges having a support flange of given dimensions.

It follows that the machine disclosed in this reference does not have the capabilities of a machine

according to the present invention. Claim 1 clearly defines over this reference at least by its recitation that "said infusion head has a support having a least one hollow forming housing for at least two cartridges of different diameters, characterized in that said hollow has the same peripheral annular seat common to several seating flange diameters of different cartridges, one or more parts of the external edge of said peripheral seat forming a vertical wall for common indexing of said cartridges". None of these limitations is found in the '215 reference.

The rejection of claims 1-3 as anticipated by EP 1208782 is also respectfully traversed.

The '782 reference discloses a percolation device for a coffee maker operating with pre-packaged capsules (4) having different formats. The machine includes a percolation chamber (14) supplied with a percolation head (17) mounted to slide vertically through an opening provided in the upper part of the chamber (14). The percolation head (17) has at its interior a recess (19) in the form of a bell having dimensions corresponding to that of a small capsule. When a larger capsule is used, the top of the capsule pushes the percolation head upwardly. The relative position of the percolation head (17) with respect to the chamber (14) is thus caused to

vary as a function of the dimensions of the capsule used. A stop unit comprising a rod (21) terminated by a head (23) pushed by a cam (24) and sliding horizontally under the action of the spring (22) is provided to assure that the percolation head (17) is blocked in a position that is a function of the size of the capsule used. The rod (21) is blocked in position by a rib (25, 26) corresponding to the height of the capsule.

The capsules shown in Figures 10 and 11 are of small height and have dimensions corresponding to those of the recess (19), while the capsules shown in Figures 8 and 9 are of greater height and are provided to contain a double dose of the product to be infused.

It should be noted that the recess (19) is vertically moveable in order to adapt to the size of the capsule and by its displacement the capsule is indexed with respect to the different wall heights of its outer envelope, depending on whether the recess is in a low position to receive a capsule of standard size or is in a raised position to receive a capsule of large size. The disadvantage of such an arrangement consists in that it has numerous moveable parts and involves, as a result, a complex construction.

Thus, the positioning being effected with respect to vertical side walls of the capsules (and not with respect to a

support flange), this system can only accept one particular type of capsule. The positioning of capsules of different sizes at the interior of the chamber must be according to the same shoulder diameter for all of the capsules, which thus limits the use of the machine to capsules having a single dimension of their support or shoulder.

Thus, claim 1 distinguishes patentably over this reference in the same manner as the '215 reference, in that the '782 reference does not disclose the previously cited features of application claim 1.

In more general terms, the purpose of the invention is to provide a machine that can function with pre-packaged doses of a product while optimizing the arrangement of cartridges of different diameters at the interior of an infusion head in order to obtain a precise retention of the cartridges together with a simplified construction of the appliance. These goals are achieved due to the fact that the hollow (29) forms a housing having a peripheral annular seat that is common to several seating flange diameters of different cartridges, one or several parts of the exterior edge of the seat forming a vertical wall for common indexing of the cartridges. The result is that, with a single support for receiving different cartridges, several types of beverages

can be prepared, while reducing the size of the infusion head and simplifying its construction.

In view of the forgoing, it is requested that the prior art rejections be reconsidered and withdrawn, that the pending claims be allowed and that the application be found in allowable condition.

If the above amendment should not now place the application in condition for allowance, the Examiner is invited to call undersigned counsel to resolve any remaining issues.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant

By 

Jay M. Finkelstein
Registration No. 21,082

JMF:dtb
Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528
G:\BN\S\seb\LAIGNEAU1\pto\AMD 13FEB06.doc